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JOSEPH G. CONTRERA
JIWEN CHEN
ROBERT S. PIERCE

IMPORTANT

FACSIMILE COVER LETTER

From: HARVEY B. JACOBSON, JR. Date: November 15, 2004
To: EXAMINER SON T. NGUYEN 703/872-9306
Re: U.S. Serial No. 10/687,867 Art Unit: 3643

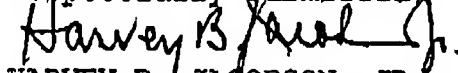
TOTAL NUMBER OF PAGES, INCLUDING COVER LETTER: 10SPECIAL COMMENTS OR INSTRUCTIONS:

Dear Examiner Nguyen:

This will acknowledge receipt of the Notice of Allowance, mailed October 22, 2004, in connection with the above-identified application (copy attached). However, in reviewing the attachments to the Notice of Allowability, the Information Disclosure Statement, filed March 22, 2004, with your initials indicating review of the references submitted, was not attached. A copy is attached hereto, together with the date-stamped postcard, for your convenience.

Please provide us with an initialed copy of the March 22, 2004 Information Disclosure Statement.

Respectfully Submitted


HARVEY B. JACOBSON, JR.
for JACOBSON HOLMAN, PLLCHBJ/lhs
Attachments

THIS COMMUNICATION IS INTENDED ONLY FOR THE USE OF THE ADDRESSEE AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED AND CONFIDENTIAL. IF YOU ARE NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THIS COMMUNICATION TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, COPYING, OR OTHER USE OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE. THANK YOU.



DJC

10/26/04

Emo

UNITED STATES PATENT AND TRADEMARK OFFICE

TC 10-26-04

P67441US1

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1459
Alexandria, Virginia 22313-1450
www.uspto.gov

NOTICE OF ALLOWANCE AND FEE(S) DUE

00136

7590

10/22/2004

JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

JACOBSON HOLMAN PLLC

Issue Fee Due On Or Before
1 / 1 / 22 / 05
Month Day Year

EXAMINER

NGUYEN, SON T

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 10/22/2004

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,867	10/20/2003	David W. Swift	P67441US1	2062

TITLE OF INVENTION: BIRD FEEDER WITH MODULAR BIRD SEED RESERVOIRS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$695	\$300	\$995	01/24/2005

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II, PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III, All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

Notice of Allowability

Application No.

10/687,867

Examiner

Son T. Nguyen

Applicant(s)

SWIFT ET AL.

Art Unit

3643

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address—

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the telephone interview on 9/10/04.
2. ☒ The allowed claim(s) is/are 1-6, 8, 13 and 19-25.
3. ☒ The drawings filed on 20 October 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).


* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Son T. Nguyen
Prim Exm 3643



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,867	10/20/2003	David W. Swift	P67441US1	2062
00136	7590	10/22/2004		

JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

EXAMINER	
NGUYEN, SON T	

ART UNIT	PAPER NUMBER
3643	

DATE MAILED: 10/22/2004

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (703) 305-1383. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,867	10/20/2003	David W. Swift	P67441US1	2062
00136	7590	10/22/2004	EXAMINER	
JACOBSON HOLMAN PLLC 400 SEVENTH STREET N.W. SUITE 600 WASHINGTON, DC 20004			NGUYEN, SON T	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 10/22/2004

Notice of Fee Increase on October 1, 2004

If a reply to a "Notice of Allowance and Fee(s) Due" is filed in the Office on or after October 1, 2004, then the amount due will be higher than that set forth in the "Notice of Allowance and Fee(s) Due" because some fees will increase effective October 1, 2004. See Revision of Patent Fees for Fiscal Year 2005; Final Rule, 69 Fed. Reg. 52604, 52606 (May 10, 2004).

The current fee schedule is accessible from WEB site (<http://www.uspto.gov/main/howtofees.htm>).

If the fee paid is the amount shown on the "Notice of Allowance and Fee(s) Due" but not the correct amount in view of the fee increase, a "Notice of Pay Balance of Issue Fee" will be mailed to applicant. In order to avoid processing delays associated with mailing of a "Notice of Pay Balance of Issue Fee," if the response to the Notice of Allowance is to be filed on or after October 1, 2004 (or mailed with a certificate of mailing on or after October 1, 2004), the issue fee paid should be the fee that is required at the time the fee is paid. See Manual of Patent Examining Procedure (MPEP), Section 1306 (Eighth Edition, Rev. 2, May 2004). If the issue fee was previously paid, and the response to the "Notice of Allowance and Fee(s) Due" includes a request to apply a previously-paid issue fee to the issue fee now due, then the difference between the issue fee amount at the time the response is filed and the previously-paid issue fee should be paid. See MPEP Section 1308.01.

Effective October 1, 2004, 37 CFR 1.18 is amended by revising paragraphs (a) through (c) to read as set forth below.

Section 1.18 Patent post allowance (including issue) fees.

- (a) Issue fee for issuing each original or reissue patent, except a design or plant patent:
- By a small entity (Sec. 1.27(a))..... \$685.00
 - By other than a small entity..... \$1,370.00
- (b) Issue fee for issuing a design patent:
- By a small entity (Sec. 1.27(a))..... \$245.00
 - By other than a small entity..... \$490.00
- (c) Issue fee for issuing a plant patent:
- By a small entity (Sec. 1.27(a))..... \$330.00
 - By other than a small entity..... \$660.00

Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

Application/Control Number: 10/687,867
Art Unit: 3643

Page 2

DETAILED ACTION

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Applicant's representative, Harvey Jacobson, on 9/10/04.

The application has been amended as follows: cancel claims 26-30.

Allowable Subject Matter

2. **Claims 1-6,8,13,19-25** are allowed.


3. The following is an examiner's statement of reasons for allowance: the prior art of record fails to disclose or render obvious a bird feeder as specifically claimed in claims 1 & 19, especially with a support ring being carried by the central post and having an upstanding finger for each of the plurality of hopper elements, each hopper element including a shoulder portion defining an aperture slidably receivable over one of the fingers. None of the prior arts have this attachment feature.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Application/Control Number: 10/687,867
Art Unit: 3643

Page 3

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is (703) 305-0765. The examiner can normally be reached on Monday - Friday from 9:00 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at (703) 872-9325. The official fax number is 703-872-9306.


Son T. Nguyen
Primary Examiner, GAU 3643
September 10, 2004

Serial P67441US1 **Today's Date** 3-22-04

Serial/Patent No. 10/687,867

Applicant, Patentee, Assignee SWIFT et al

Filing Date/Patent Date October 20, 2003

The following has been received in the U.S. Patent & Trademark Office on the date stamped hereon:

<input type="checkbox"/> <u>pp.</u> Specification & _____ Claims	<input type="checkbox"/> Response to Office Action
<input type="checkbox"/> Combined Declaration, Power of Attorney	<input checked="" type="checkbox"/> Disclosure Statement-IDS
<input type="checkbox"/> Preliminary Amendment	<input checked="" type="checkbox"/> Copies of References (15)
<input type="checkbox"/> Rule 63 (b) Application	<input type="checkbox"/> Request for Refund
<input type="checkbox"/> Rule 63 (d) /RCE Application	<input type="checkbox"/> Request for Corrected Filing Receipt
<input type="checkbox"/> Claim to Priority and Certified Copy	<input type="checkbox"/> Pillion for XOT
<input type="checkbox"/> Subellute <input type="checkbox"/> Subsequent Declaration	<input type="checkbox"/> Notice of Appeal/Brief
<input type="checkbox"/> Maintenance Fee	<input type="checkbox"/> Sequence Listing
<input type="checkbox"/> Drawings _____ Sheets _____ Formal _____ Informal _____	<input type="checkbox"/> Issue Fee Transmittal
<input type="checkbox"/> Assignment/Change of Name	<input type="checkbox"/> Other _____
<input type="checkbox"/> Small Entity Declaration	
<input type="checkbox"/> Check for \$ _____	

JH 11/01 DUE DATE _____
Person filing _____ LHS

U.S. PATENT & TRADEMARK OFFICE
MAR 22 2004
JACOBSON HOLMAN PLLC
400 SEVENTH STREET, N.W.
WASHINGTON, D.C. 20004

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NOV 15 2004

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: SWIFT et al

Serial No.: 10/687,867

Group Art Unit: Not Yet Assigned

Filed: October 20, 2003

Examiner: Not yet assigned

For: BIRD FEEDER WITH MODULAR BIRD SEED RESERVOIRS

INFORMATION DISCLOSURE STATEMENT

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

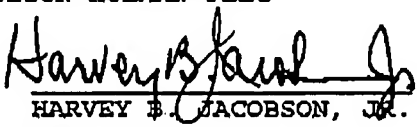
As a means of complying with the duty of disclosure under 37 CFR §1.56, and in accordance with 37 CFR §§1.97 and 1.98, Applicant(s), through the undersigned attorney, submits this Information Disclosure Statement. The patents, publications or other information submitted herewith are listed on the attached Form PTO-1449 and copies are attached.

In accordance with 37 CFR §1.97(b)(3), this Information Disclosure Statement is being filed before the mailing date of a first Office Action on the merits of the above-identified application. Accordingly, no fee is required.

Respectfully submitted,

JACOBSON HOLMAN PLLC

By:


HARVEY B. JACOBSON, JR.
Reg. No. 20,851

400 Seventh Street, N.W.
Washington, DC 20004
(202) 638-6666
Atty. Dkt. No. P67441US1
HBJ/lhs

FORM PTO-1449 (Modified)

Sheet 1 of 1

JACOBSON HOLMAN PLLC
400 SEVENTH STREET, N.W.
WASHINGTON, D.C. 20004-2201

LIST OF PATENTS AND PUBLICATIONS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT

ATTY. DOCKET NO.: P67441US1
 SERIAL NO.: 10/687,867
 APPLICANT(S): SWIFT et al

GROUP ART UNIT: NOT YET ASSIGNED
 FILING DATE: October 20, 2003
 TODAY'S DATE: March 22, 2004

U.S. PATENT DOCUMENTS

*EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUB- CLASS	FILING DATE If Appropriate
	AA 5,033,411	07-1991	Brucker	119	52.2	
	AB 6,360,690	03-2002	Canby	119	52.2	
	AC 5,558,040	09-1996	Colwell et al	119	52.2	
	AD 5,970,913	10-1999	Bloedorn	119	57.8	
	AE 3,645,235	02-1972	Suchla	119	52.2	
	AF 5,291,855	03-1994	Laverty	119	52.3	
	AG 5,791,286	08-1998	Taussig	119	52.3	
	AH 4,246,869	01-1981	Tobin	119	57.8	
	AI 6,581,540	06-2003	LaVanish	119	51.01	
	AJ 6,481,375	11-2002	Scalf	119	52.2	
	AK 4,327,669	05-1982	Blasbalg	119	57.8	

FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB- CLASS	TRANSLATION YES) (NO)
AL						
AM						
AN						

OTHER ART (Including Author, Title, Date, Pertinent Pages, Etc.)

AO	Gardensong Feeders, Coach Lamp Bird Feeder No. 469-6 and Carriage Lamp Bird Feeder No. 470-6, page 11
AP	Terra Cotta, Bird Feeders No. 4101-4 and 4106-4, page 14
AQ	Top Flight Lifetime Feeders, Fortress Squirrel Proof Bird Feeder, 5108, 1997
AR	Top Flight Lifetime Feeders, Fortress Triple Tube Bird Feeder No. 5124-2, Bird Feeder No. 5101-4 and Finch Feeder No. 5102-4, 5108

EXAMINER

DATE CONSIDERED

* EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant(s)

JCH-3/01-111a